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14 Attorneys for Plaintiff MICHELLE T. WAHL, on behalf of herself and all  
 others similarly situated

16 **UNITED STATES DISTRICT COURT**

17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

18 MICHELLE T. WAHL, on behalf of herself and all others similarly situated,	)	Case No. C08-00555 RS
19 Plaintiff,	)	<b><u>CLASS ACTION</u></b>
20 v.	)	
21 AMERICAN SECURITY INSURANCE COMPANY; and DOES 1-50, inclusive,	)	PLAINTIFF'S NOTICE OF DECLINING TO AMEND SIXTH CAUSE OF ACTION FOR VIOLATIONS OF THE CONSUMERS LEGAL REMEDIES ACT
22	)	
23 Defendants.	)	
24	)	

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25 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

26 PLEASE TAKE NOTICE that plaintiff MICHELLE WAHL, on behalf of herself and all  
 27 persons similarly situated, hereby respectfully declines to amend the Sixth Cause of Action for  
 28 Violations of the Consumers Legal Remedies Act stated in the First Amended Complaint herein,

1 which opportunity to amend was allowed by the Court pursuant to its Order Granting in Part and  
2 Denying in Part Motion to Dismiss dated 6/16/08. Plaintiff respectfully contends that the Sixth  
3 Cause of Action was adequately alleged, but Plaintiff recognizes that the pertinent scope of the  
4 Consumers Legal Remedies Act will be determined in *Fairbanks v. Superior Court*, 64 Cal.Rptr.3d  
5 623 (Cal.App. 2007), *petition for review granted*, 68 Cal.Rptr.3d 273 (2007), the case now pending  
6 before the California Supreme Court. In the event that *Fairbanks* case is decided such that the  
7 pertinent scope of the Consumers Legal Remedies Act could include this case, then plaintiff will  
8 bring the appropriate motion before this Court to have the Sixth Cause of Action reconsidered.

9 PLEASE NOTE FURTHER that, pursuant to Rule 15(a)(3) the Rules of Civil Procedure,  
10 plaintiff respectfully submits that the response of defendant AMERICAN SECURITY INSURANCE  
11 COMPANY to the First Amended Complaint must be made within ten (10) days after e-service of  
12 this Notice.

13  
14 Dated: June 19, 2008

Respectfully submitted,

15 SPECTER SPECTER EVANS & MANOGUE, P.C.

16 PIETZ LAW OFFICE

17 YUNKER & SCHNEIDER

18  
19 By: /s/ Stephen F. Yunker

Stephen F. Yunker, one of the attorneys for  
Plaintiff Michelle T. Wahl and the Plaintiff Class